

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DARNELL BRANCH,	:	CIVIL ACTION
Plaintiff	:	
	:	
v.	:	
	:	
FRANKLIN J. TENNIS, et al.	:	
Respondents	:	No. 07-3532

MEMORANDUM AND ORDER

Presently before the Court is Petitioner's pro se "Motion to File Supplement Petition for Writ of Habeas Corpus." (Doc # 22). For the reasons set forth herein, the motion will be granted.

As an initial matter, although Petitioner's motion is titled "Motion to File Supplement," this Court will construe Petitioner's motion as a motion to amend. The Federal Rules of Civil Procedure apply to motions to amend habeas corpus petitions. See United States v. Duffus, 174 F.3d 333, 335 (3d Cir. 1999). Rule 15(a) provides that a party may amend his pleading once as a matter of course at any time before a responsive pleading is filed. Fed.R.Civ.P. 15(a). Respondent's Answer was filed on November 26, 2007. Petitioner's motion to file supplement, filed in response to this Court's letter (Doc. # 21), was filed on March 26, 2008, four (4) months later. As such, Petitioner is not entitled to amend his petition as a matter of course. However, Rule 15(a) also provides that leave to amend a pleading "shall be freely given when justice so requires." Id., see Forman v. Davis, 371 U.S. 178, 182 (1962).

Petitioner's Motion requests that he be permitted to supplement his petition for writ of habeas corpus to include four (4) claims currently pending before the state court. The four (4) additional claims are contained in a document titled "Petition for Post Conviction Relief" (Doc. # 14), filed with this Court on December 21, 2007. Petitioner further requests that this document be incorporated into his habeas petition in lieu of filing another separate document.

Petitioner has until July 19, 2008, to timely file one all-inclusive petition containing all of the claims he would like to raise. See 28 U.S.C. § 2244(d). In light of the fact that Petitioner's motion to amend is timely and in the in the interest of justice and judicial economy, Petitioner's motion will be granted. Petitioner's habeas petition is amended to include the four (4) additional claims contained in Doc. # 14. An appropriate order follows.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DARNELL BRANCH,	:	CIVIL ACTION
Plaintiff	:	
	:	
v.	:	
	:	
FRANKLIN J. TENNIS, et al.	:	
Respondents	:	No. 07-3532

AND NOW, this 23rd day of April, 2008, upon consideration of Petitioner's
"Motion to File a Supplement Petition for Writ of Habeas Corpus" (Doc #22), IT IS
HEREBY ORDERED that the motion is GRANTED.

BY THE COURT:

/S/PETER B. SCUDERI
PETER B. SCUDERI
UNITED STATES MAGISTRATE JUDGE